

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

NORTH AMERICAN SPECIALTY
INSURANCE COMPANY

Plaintiff

VS.

CIVIL ACTION NO: 04-10374WGY

MARY & JOSEPHINE CORP. and
MATTEO RUSSO

Defendants

JOINT MOTION TO EXTEND DISCOVERY DEADLINES
AND TRIAL DATE

NOW COME Plaintiff North American Specialty Ins. Co. and Defendant Matteo Russo, by and through their counsel and jointly move to extend the discovery deadlines and the trial date in this matter on the following grounds:

1. This is a declaratory judgment action in which Plaintiff North American Specialty Ins. Co. seeks a declaration that it has no contractual obligation to provide Defendant Mary & Josephine Corp. with a defense and indemnity in a personal injury action brought by Defendant Matteo Russo against Mary & Josephine Corp. (Docket No.04-10108 WGY) arising out of an incident on the F/V MARY & JOSEPHINE in December, 2003.

2. On September 14, 2005, the Court held a Scheduling Conference in this matter. Shortly thereafter, the Court entered a Scheduling Order and indicated that this matter would be reached for trial no sooner than September, 2005.

3. Shortly after the Scheduling Conference, the parties commenced discovery, with each party serving and answering interrogatories and requests for production of documents.

4. On January 5, 2005, Defendants Matteo Russo and Mary & Josephine Corp. commenced the 30(b)(6) deposition of North American Specialty Ins. Co. in Dedham, MA. Shortly after the commencement of the deposition, Richard H. Pettingell, Esq., counsel for Mary & Josephine, Corp., suffered an hemorrhagic stroke.

5. Mr. Pettingell was transported via ambulance to the Beth Israel Hospital, where he was admitted and treated by a team of stroke physicians.

6. On January 22, 2005, Mr. Pettingell was released from the Beth Israel Hospital and moved to the Life Care Center of Acton where he underwent physical and occupational therapy and was discharged to his home on January 29, 2005.

7. Mr. Pettingell returned to work on a limited basis while he completed physical and occupational therapy as an outpatient at the Spaulding Rehabilitation Hospital.

8. Mr. Pettingell is a sole practitioner and has been Mary & Josephine Corp.'s only counsel since the inception of this case.

9. Shortly after Mr. Pettingell returned to work, counsel in this matter conferred and not only re-scheduled Plaintiff's deposition, but also scheduled the depositions of both Defendants for March 24 and 25, 2005.

10. Unfortunately, in early March, 2005, Mr. Pettingell was advised that he would need to undergo surgery to repair damage caused by his stroke. He was re-admitted to Beth Israel Hospital during the second week of March, 2005.

11. Counsel for Plaintiff and Defendant Matteo Russo do not know when Mr. Pettingell will be able to resume his participation in this matter. It is clear, however, that the parties will not be able to complete discovery and be prepared for trial within the time frames originally ordered by the Court.

12. In light of the above, and with the hope that Mr. Pettingell will be able to resume his participation in this matter in the near future, counsel for North American Specialty Ins. Co. and Matteo Russo respectfully request that the original Scheduling Order in this matter be withdrawn, and that the Court schedule a status conference in mid-May, 2005, at which time a new scheduling order can be agreed upon and entered by the Court. Dated this 22nd day of March, 2005.

The Parties,
By their attorneys

NORTH AMERICAN SPECIALTY
INSURANCE COMPANY, Plaintiff

/s/ Leonard W. Langer

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MATTEO RUSSO, Defendant

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